

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

45 Fremont Street, 24th Floor

San Francisco, California 94105

INITIAL STATEMENT OF REASONS

Date: April 26, 2005 RH05044548

REGULATIONS CONCERNING DISABILITY INSURANCE ASSESSMENT PURSUANT TO INSURANCE CODE SECTION 1872.85

INTRODUCTION

Pursuant to Insurance Code Section 1872.85, Insurance Commissioner John Garamendi proposes to add to Title 10, California Code of Regulations, Chapter 5, Subchapter 9, article 8, Sections 2698.95(b), 2698.95.1, 2698.96, 2698.97, 2698.98 and 2698.98.1. Insurance Code Section 1872.85 permits the Commissioner to collect an annual fee of up to ten cents for each insured under an individual or group disability insurance policy. The purpose of the assessment is to clarify the treatment of individuals covered by a group disability policy and to create a more detailed application process for the grants administered by Disability Insurance Fraud assessment program. The regulation also sets the procedure for periodic reporting and auditing of the district attorney's offices receiving grants under this program

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION

The specific purpose of each adoption and the rationale for the Commissioner's determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed are set forth below:

§2698.95

After Section 2698.95 was originally promulgated, it became apparent that there may be some ambiguity in the treatment of persons covered by a group disability policy. The proposed change to Section 2698.95 will clarify the treatment of persons insured by a group disability insurance person. The amendment will define an insured person, subject to the existing assessment contained in Section 2698.95, as including any person that is issued an individual certificate of coverage from a group disability insurance policy. This regulation will remove any ambiguity concerning the treatment of persons covered by a group disability policy.

§2698.95.1

The proposed regulation directs the Commissioner, in making a grant award decision, to consider the information provided in a grant application and to consider the recommendation of the Fraud Division. It permits the Commissioner to choose grant recipients that have the potential to have the greatest impact on disability insurance fraud activity. This regulation will allow the

Commissioner to target the grants to areas where there is a serious disability insurance fraud problem.

§2698.96

This proposed regulation sets out the requirements of an application for a grant under the Disability Insurance Fraud Assessment program. It requires an applicant to detail the scope of the disability insurance fraud problem in their jurisdiction, to detail the proposed use of the grant, and to project anticipated outcomes from the use of the grant. This regulation will provide the Commissioner with sufficient information to evaluate the applications in order to determine the best use of the grants awarded in this program.

§2698.97

This proposed regulation sets out the procedures for funding a grant once it is awarded by the Commissioner. In addition, grant recipients are required to report on any carryover amounts that may remain from the grant at the end of the funding cycle. This regulation will require grant recipients to report on their ability to use the funds generated by the program grants. The Commissioner will then be able to determine which counties have been able to make the best use of the grants given under this program.

§2698.98

This proposed regulation sets out the format for a proposed budget that is to accompany all grant applications. The regulation defines what costs are not allowable to be paid for with the grant proceeds. This regulation will require the grant recipients to detail how they intend to use the grant money that they have been awarded. It imposes greater accountability on the recipients concerning the use of the grant funds.

§2698.98.1

This proposed regulation requires each district attorney that receives a grant to submit an annual report to the Commissioner concerning the program that was funded with the grant and the program's accomplishments. The report is to include details on expenditures and a financial audit. In addition, the report should describe the number of investigations, arrests, prosecutions and convictions that resulted from the program funded by the grant. This regulation requires recipients to report on their performance in using grant money and permits the Commissioner to periodically audit the recipients to see how grant moneys were spent. It imposes greater accountability on the grant recipients.

The proposed regulations will implement the collection of the assessment that is authorized by Insurance Code Section 1872.85. The Commissioner believes that the proposed regulations are necessary to carry out the express intent of the Legislature, as articulated in the Statute.

IDENTIFICATION OF STUDIES

There are no specific studies relied upon in the adoption of this article.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of these regulations would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has identified no reasonable alternatives to the presently proposed regulations, nor have any such alternatives otherwise been identified and brought to the attention of the Department, that would lessen any impact on small business. It is anticipated that the regulation would not adversely affect small business.

PRENOTICE DISCUSSIONS

The Commissioner has conducted prenotice public discussions on the proposed regulation on April 7, 2005. For this reason, it is unlikely that the interested parties will find the proposed regulations too complex or multifarious to be reviewed easily during the comment period and it is not anticipated that the adoption of the proposed regulations will be particularly controversial